

PROVIDENCE PIERS, LLC,  
  
Plaintiff,  
  
v.  
  
SMM NEW ENGLAND, INC.; THE CITY  
OF PROVIDENCE, RHODE ISLAND;  
ANDREW J. ANNALDO, in his  
capacity as Chairman & Secretary  
of the City of Providence Board  
of Licenses; ARYS BATISTA, in  
his capacity as Vice Chairman of  
the City of Providence Board of  
Licenses; ALLENE MAYNARD, in her  
capacity as Member of the City  
of Providence Board of Licenses;  
JEFFREY WILLIAMS, in his  
capacity as Member of the City  
of Providence Board of Licenses;  
and EVERETT BIANCO, in his  
capacity as Member of the City  
of Providence Board of Licenses,  
  
Defendants.

WILLIAM E. SMITH, United States District Judge.

On January 16, 2013, this Court denied the Motion to Remand of Plaintiff Providence Piers, LLC ("Providence Piers"). (Opinion and Order, ECF No. 25.) The Court determined that the City of Providence, Rhode Island (the "City") and all named individuals serving on its Board of Licenses had been fraudulently joined to this action, and, thus, complete

diversity existed between Providence Piers and the remaining Defendant, SMM New England, Inc. (Id.) The City now moves for dismissal with respect to itself only.<sup>1</sup> (ECF No. 28.) This motion is unopposed and it is hereby GRANTED.

Rule 21 of the Federal Rules of Civil Procedure (Misjoinder and Nonjoinder of Parties) provides that "[o]n motion or on its own, the court may at any time, on just terms, add or drop a party." This Court already found that the City was fraudulently joined, so the City must now be dismissed. See Pascale Serv. Corp. v. Int'l Truck & Engine Corp., C.A. No. 07-0247-S, 2007 WL 2905622, at \*2 n.4 (D.R.I. Oct. 1, 2007) ("As a practical matter, . . . upon a finding of fraudulent joinder and denial of the plaintiff's motion to remand, a court might also grant the fraudulently joined party's motion to dismiss."); see also Antonucci v. Cherry Hill Manor, No. Civ. A. 06-108ML, 2006 WL 2456488 at \*2 (D.R.I. Aug. 22, 2006) (dismissing, pursuant Rule 21 of the Federal Rules of Civil Procedure, a party that was fraudulently joined).

IT IS SO ORDERED.

WESMM  
William E. Smith  
United States District Judge  
Date: 3/7/13

<sup>1</sup> Because the other municipal Defendants were never served, this Motion pertains to the City only.